UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.178
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Belgium

1. At its 782nd and 783rd meetings (see CRC/C/SR.782-783), held on 23 May 2002, the Committee on the Rights of the Child considered the second periodic report of Belgium (CRC/C/83/Add.2) and adopted* the following concluding observations.

A. Introduction

2. The Committee notes with appreciation that the report followed the guidelines for reporting. It notes that the report was timely, comprehensive and self-critical in nature, as were the written replies to its list of issues (CRC/C/Q/BELG/2) and welcomes the additional information provided in annexes. The discussion in the report on the follow-up to the Committee's earlier recommendations was especially appreciated. The Committee also notes with appreciation the presence of a high-level delegation, which contributed to an open dialogue and a better understanding of the implementation of the Convention in Belgium.

* At the 804th meeting, held on 7 June 2002.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes:

The adoption of article 22 bis of the Constitution on the protection of children;

The adoption of new laws by the State party concerning the protection of children, child labour, guardianship and family mediation;

The numerous initiatives to combat trafficking and child sexual exploitation, among others: the introduction of Joint Actions under the Europol Convention; the establishment of a national commission of experts to study sexual exploitation of children; the establishment of Child Focus, a European centre for missing and exploited children; the adoption of three Acts in 1995 to combat sexual exploitation; and the reform of the Criminal Code;

The ratification of the Optional Protocol to the Convention on the involvement of children in armed conflict; and

The ratification of ILO Convention No. 182 on the Worst Forms of Child Labour.

C. Principal subjects of concern and recommendations

The Committee's previous recommendations

4. The Committee regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.38) after its consideration of the State party's initial report (CRC/C/11/Add.4) have been insufficiently addressed, particularly those contained in paragraphs 8, 9, 11 and 13 to 16. Those concerns and recommendations are reiterated in the present document.

5. **The Committee urges the State party to make every effort to address the previous recommendations that have not yet been implemented and the list of concerns contained in the present concluding observations.**

1. General measures of implementation

Reservations and declarations

6. The Committee appreciates the fact that the State party has reviewed its declaration on article 2 and its reservation to article 40.2 (v) of the Convention, pursuant to the previous concluding observations. Nevertheless, it is concerned that the State party does not intend to withdraw them. With respect to article 2, the Committee, noting that the general principle of non-discrimination in the Convention prohibits differences in treatment on grounds that are arbitrary and objectively unjustifiable, including nationality, is concerned that the declaration on article 2 may restrict the enjoyment of non-Belgian children in Belgium of rights contained in the Convention. The Committee emphasizes that the guarantee of non-discrimination in the

Convention applies to "each child within [the State party's] jurisdiction". With respect to the reservation to article 40, the Committee is concerned that the possibility of appeal to the Court of Cassation against judgements and measures imposed by the Court of Assizes (sitting here as the court of first and last instance) is strictly limited to points of law and therefore deprives the defendant of a full review of his case by a higher court, which is all the more important in that the Court of Assizes handles the most severe cases and imposes relatively heavy sentences.

7. **The Committee encourages the State party to review its declaration and reservation with a view to withdrawing them in accordance with the Declaration and Programme of Action of the Vienna World Conference on Human Rights (1993).**

Legislation

8. The Committee welcomes the information provided by the State party on draft laws concerning the rights of the child, including with respect to adoption, guardianship for unaccompanied minors, access to courts and guarantees of due process.

9. **The Committee recommends that the State party:**

(a) Rigorously review these laws and ensure that they and other laws concerning children, as well as administrative regulations, are rights-based and conform to international human rights standards, including the Convention;

(b) Ensure that adequate provision is made for their effective implementation, including budgetary allocation;

(c) Ensure their speedy promulgation.

Coordination

10. The Committee notes the establishment, since the initial report was considered, of the Inter-Ministerial Conference for the Protection of Child Rights and the agreement on the creation of a national commission for the rights of the child. However, the Committee remains concerned: at the absence of a global vision of children's rights and its translation into a national plan of action; that different laws governing different administrative jurisdictions may lead to discrimination in the enjoyment of children's rights across the State party; that the absence of a central mechanism to coordinate the implementation of the Convention in Belgium makes it difficult to achieve a comprehensive and coherent child rights policy.

11. **The Committee recommends that the State party:**

(a) Expedite the formal approval and full implementation of the above-mentioned agreement in order to establish a national commission for the rights of the child and provide it with adequate human and financial services;

(b) Assign coordination of the implementation of the Convention to a highly visible and easily identifiable permanent body with an adequate mandate and adequate resources;

(c) Prepare and implement a comprehensive national plan of action for the implementation of the Convention, paying special attention to children belonging to the most vulnerable groups (e.g. poor households, asylum-seekers), through an open, consultative and participatory process;

(d) Continue and expand the use of child impact assessments in the formulation of budgets and policies.

Monitoring structures

12. The Committee notes the establishment, since the initial report was considered of the Children's Rights Commissioner for the Flemish Community. The Committee acknowledges the activities of the Délégué Général aux Droits des Enfants in the French Community and of the Centre for Equal Opportunities and Opposition to Racism. However, the Committee is concerned that there is no independent mechanism to monitor the implementation of the Convention and empowered to receive and address complaints of children in the German-speaking Community, nor at the federal level.

13. **The Committee recommends that the State party:**

(a) Establish independent human rights institutions in the German-speaking Community and at the federal level, in accordance with the Paris Principles (General Assembly resolution 48/134), to monitor and evaluate progress in the implementation of the Convention. They should be accessible to children and empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively;

(b) Ensure that all the human rights institutions have formal advisory functions with the respective legislative bodies and that they establish formal links with each other.

Data collection

14. The Committee welcomes the statistical annexes provided with the list of issues; notes measures under way to improve data collection in offices processing asylum claims; and welcomes the information that a working group on statistics will be set up within a national study forum on juvenile delinquency. Nevertheless, with reference to its previous concluding observations, the Committee is still concerned at the absence of a nationwide mechanism to collect and analyse data on the areas covered by the Convention.

15. **The Committee recommends that the State party establish a nationwide system such that disaggregated data are collected on all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups (e.g. non-nationals, children with**

disabilities, children of economically disadvantaged households, children in conflict with the law, etc.), and that these data are used to assess progress and design policies to implement the Convention.

Training/dissemination of the Convention

16. The Committee welcomes the information that the State party has made available compilations of the initial report, the summary records of the meetings at which it was discussed, and the Committee's concluding observations. It also welcomes the information concerning special publications for disabled children. However, the Committee is concerned that the State party is not undertaking adequate dissemination, awareness-raising and training activities concerning the Convention in a systematic and targeted manner.

17. **The Committee recommends that the State party:**

(a) Strengthen and make ongoing its programme for the dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels of government, including initiatives to reach vulnerable groups, such as new immigrants;

(b) Develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel).

2. General principles

The right to non-discrimination

18. The Committee welcomes the Decree of March 2000 expanding the mandate of the Centre for Equal Opportunities and Opposition to Racism to include all forms of discrimination, including grounds of gender, sexual orientation, birth, civil status, ill health, age and disability. The Committee is concerned at racist incidents against minorities; the disparities in the enjoyment of economic and social rights, particularly health and education, experienced by poor children, non-Belgian children, including unaccompanied minors, and disabled children.

19. **In accordance with article 2 of the Convention, the Committee recommends that the State party:**

(a) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes, and implement the recommendations of the Committee on the Elimination of Racial Discrimination (March 2002);

(b) Take all necessary measures to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination;

(c) Continue to prioritize and target resources and social services to children belonging to the most vulnerable groups;

(d) Review existing policies and practice in relation to children with disabilities, including draft legislation, with due regard to the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and to the Committee's recommendations adopted at its day of general discussion on children with disabilities (see CRC/C/69).

20. **The Committee requests that specific information be included in the next periodic report on measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party in follow-up to the Declaration and Programme of Action adopted by the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of General Comment No. 1 on article 29.1 of the Convention (aims of education).**

Respect for the views of the child

21. The Committee welcomes the information that several structures have been set up with the support of the State party through which children can make their views known. These include conferences, courses on children's rights, councils in schools and communities, and the "What do you think?" project. However, the Committee is concerned that children are not adequately informed on how they can have input into policies that affect them, nor how their views will be taken into consideration once they have been solicited; and that sufficient attention has not been accorded to the participation of primary and secondary students in school governance, including in areas such as school regulations and management of discipline. With respect to court or administrative proceedings affecting the child, the Committee is concerned that the right to be heard is largely discretionary under article 931 of the Judicial Code, and is not adequately guaranteed to the child. The Committee welcomes the information concerning a draft law in this regard.

22. **The Committee recommends that the State party, in accordance with article 12, take further steps to promote and facilitate meaningful participation of children in society, including in schools. Moreover, it recommends that legislation governing procedure in courts and administrative proceedings ensure that a child capable of forming his/her own views has the right to express those views and that they are given due weight.**

3. Civil rights and freedoms

Violence/abuse/neglect/maltreatment

23. The Committee notes with satisfaction the numerous initiatives taken in the area of child abuse, including sexual abuse, such as the Law on the Criminal Protection of Minors (of 28 November 2000), amendments to the Criminal Code and the adoption of article 22 bis of the Constitution concerning the protection of the child's moral, physical and sexual integrity. But it remains concerned that corporal punishment is not expressly prohibited by law.

24. **The Committee recommends that the State party:**

(a) Take legislative measures to prohibit corporal punishment of children in the family, in schools and in institutions;

(b) Continue to carry out public education campaigns about the negative consequences of corporal punishment and promote positive, non-violent forms of discipline;

(c) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, and to intervene where necessary;

(d) Prosecute in cases of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and his/her privacy is protected;

(e) Provide for the care, recovery and reintegration for victims;

(f) Strengthen the reporting system, through full support of the confidential centres for abused children, and train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment.

Human rights education

25. The Committee is concerned that the aims of education outlined in article 29 of the Convention, including the development and respect of human rights, tolerance and equality of the sexes and religious and ethnic minorities is not explicitly part of the curricula throughout the State party.

26. **The Committee recommends that the State party, taking into account the Committee's General Comment No. 1 on the aims of education, include human rights education, including children's rights, in the curricula of all primary and secondary schools, particularly with respect to the development and respect of human rights, tolerance and equality of the sexes and religious and ethnic minorities.**

4. Special measures of protection

Unaccompanied minors

27. The Committee welcomes the creation of a special bureau for unaccompanied minors in the Aliens Office for handling their requests to stay. It also notes a number of other activities, among others: concerning the establishment of special reception centres for unaccompanied minors; a draft law on the creation of a guardianship service, access to education and missing persons, which contains provisions on unaccompanied minors. But there are not yet, as the Government acknowledges, specific regulations for unaccompanied minors, whether seeking asylum or not.

28. In accordance with the principles and provisions of the Convention, especially articles 2, 3 and 22, and with respect to unaccompanied persons under 18 years of age, the Committee recommends that the State party:

(a) Expedite efforts to establish special reception centres for unaccompanied minors, with special attention to those who are victims of trafficking and/or sexual exploitation;

(b) Ensure that the stay in those centres is for the shortest time possible and that access to education and health is guaranteed during and after the stay in the reception centres;

(c) Approve as soon as possible the draft law on the creation of a guardianship service, in order to ensure the appointment of a guardian for an unaccompanied minor from the beginning of the asylum process and thereafter as long as necessary, and make sure that this service is fully independent, allowing it to take any action it considers to be in the best interests of this minor;

(d) Ensure unaccompanied minors are informed of their rights and have access to legal representation in the asylum process;

(e) Improve cooperation and exchange of information among all the actors involved, including the Aliens Office and other relevant authorities, police services, tribunals, reception centres and NGOs;

(f) Ensure that, if family reunification is carried out, it is done in the best interests of the child;

(g) Expand and improve follow-up of returned unaccompanied minors.

Sexual exploitation and trafficking

29. The Committee reiterates its satisfaction with the numerous measures taken by the State party to combat the sexual exploitation and trafficking of children. It is nevertheless concerned that trafficking for the purposes of sexual or other exploitation is still a problem.

30. The Committee recommends that the State party:

(a) Fully implement the recommendations of the national commission of experts;

(b) Continue to implement policies and programmes in accordance with the Declaration and Agenda for Action, and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;

(c) Continue to recruit female police officers to improve communication and contacts with foreign girls and women working in prostitution;

(d) Ensure that adequate resources (human and financial) are allocated to policies and programmes in this area;

(e) Continue to undertake awareness-raising campaigns in countries of origin;

(f) Expand cooperation with countries of origin and transit;

(g) Continue to cooperate with the International Organization for Migration.

Administration of juvenile justice

31. The Committee welcomes the information received since the initial report was considered that the death penalty was abolished in 1996; that article 53 of the 1965 Young Person's Protection Act, which provided for pre-trial detention for up to 15 days, was repealed; and that a national study forum on juvenile justice, including a workshop on statistics, has been set up. However, it is concerned that the interim law of 1 March 2002 (which expires on 31 October 2002) on the temporary detention of juvenile delinquents and the creation of the Everberg Centre effectively replaced article 53 of the 1965 Act with a similar, if not more restrictive, regime. Moreover, the Committee remains concerned that under article 38 of the 1965 Act, persons under the age of 18 may be tried as adults. Overall, the Committee is concerned that the holistic approach to addressing the problem of juvenile crime advocated in the Convention, including with respect to prevention, procedures and sanctions, has not been sufficiently taken into consideration by the State party.

32. **The Committee recommends that the State party:**

(a) Establish a system of juvenile justice that fully integrates into its legislation and practice the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Guidelines for Action on Children in the Criminal Justice System;

(b) Ensure that persons under 18 are not tried as adults;

(c) With respect to the law of March 2002, and its review in October 2002, ensure, in accordance with article 37 of the Convention, that the deprivation of liberty is only used as a measure of last resort, for the shortest possible time, that guarantees of due process are fully respected and that persons under 18 are not detained with adults.

5. Optional protocols

33. **The Committee encourages the State party to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.**

6. Dissemination of the reports

34. **Finally, the Committee recommends that in accordance with article 44, paragraph 6, of the Convention, the second report presented by the State party be made widely available to the public at large and that consideration be given to the publication of the report along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion, and the concluding observations adopted by the Committee following its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.**